**HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR**

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**SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.**

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**WRIT PETITION NO.2055 OF 2005**

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| **PETITIONER** | | Yugvir Singh Gupta, Aged about 22 years, S/o Shri Harshvir Singh Gupta, B.E. (I.T.) Shri Shankaracharya College of Engineering and Technology, Junwani, Bhilai, Tahsil & District Durg (CG) |
| | versus | |
| **RESPONDENTS** | 1. | Pt. Ravishankar Shukla University, Raipur (C.G.) Through: Registrar. |
| | 2. | Shri Shankaracharya College of Engineering and Technology, Bhilai Through: Principal. |
| | 3. | Dr. B.P. Sahu, Dy. Registrar (Exam.), Pt. Ravishankar Shukla University, Raipur (C.G.). |

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Present : Mr. V.G. Tamaskar, learned counsel for the petitioner.
Mr. J.R. Verma, learned counsel for the respondent/University.

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**ORAL ORDER**
**(Passed on 1st February, 2006)**

The petitioner is a student of Shri Shankaracharya College of Engineering and Technology, Junwani, Bhilai, pursuing a course of studies leading to B.E. Degree. The B.E. Eighth Semester Examination was scheduled to commence from 07/06/2005. The petitioner filed this writ petition, in this Court, on 15/05/2005, complaining that the respondent-University refused permission to him to appear for the B.E. Eighth Semester Examination scheduled to be held from 07/06/2005 for the reason that he did not pass B.E. Fourth Semester Examination in the subject of Mathematics IV. This Court while entertaining this writ petition,

by its order dated 31/05/2005, directed the respondent-University to allow the petitioner to appear for the B.E. Eighth Semester Examination as well as B.E. Fourth Semester Examination in the subject of Mathematics IV. However, the Court directed that the results of the examinations should not be declared without the leave of the Court. The order made by this Court on 31/05/2005 remains unaltered till date.

(2) I have heard learned counsel for the parties. Shri V.G. Tamaskar learned counsel for the petitioner would contend that the petitioner had appeared for the B.E. Fourth Semester Examination in the subject of Mathematics IV, conducted in the month of October 2004, but, his result was withheld and the same was declared only on 15/03/2005; whereas B.E. Seventh Semester Examination as well as B.E. Fourth Semester Examination were scheduled to be commenced from 17/03/2005 and due to want of reasonable time, the petitioner could not appear for the B.E. Fourth Semester Examination in the subject of Mathematics IV commenced from 17/03/2005. It was contended that if the University were to declare the result of the petitioner in the B.E. Fourth Semester Examination in the subject of Mathematics IV within a reasonable time, the petitioner would have prepared himself and appeared for the examination which commenced from 17/03/2005. It appears to my mind that this Court appreciating the above circumstances, by its order dated 31/05/2005 permitted the petitioner-student to appear not-only for the B.E. Eighth Semester Examination, but also B.E. Fourth Semester Examination in the subject of Mathematics IV, and I am told that accordingly the petitioner-student appeared in both the examinations, but, his results are not declared in view of the direction issued by this Court not

to declare the results without the leave of the Court. Shri Tamaskar would contend that denial of the admission-card to the petitioner to appear for the B.E. Eighth Semester Examination, in the facts and circumstances of the case, was totally arbitrary, unreasonable and violative of the principles of natural justice. Shri J.R. Verma, learned Standing Counsel for the respondent-University, *per contra*, while supporting the refusal of the University to permit the petitioner to appear for the B.E. Eighth Semester Examination commenced from 07/06/2005, would point out that the petitioner was aware of the result of the B.E. Fourth Semester Examination in the subject of Mathematics IV conducted in the month of October 2004 and that is why he applied for the admission-card and the same was granted to him as per Annexure-P/1 dated 15/03/2005, and having obtained the admission-card, the petitioner for the reasons best known to him, did not appear for the examination of the B.E. Fourth Semester Examination in the subject of Mathematics IV and, therefore, he is not entitled to any relief at the hands of this Court. Learned Standing Counsel would also draw my attention to Clause 10 of Ordinance No.77 and contend that since admittedly the petitioner did not pass-out in B.E. Fourth Semester Examination in the subject of Mathematics IV, he was not entitled to appear in the B.E. Eighth Semester Examination commenced from 07/06/2005.

(3) Having heard learned counsel for the parties, the only thing for me to consider is whether any case is made out for this Court to step-in under Article 226 of the Constitution of India and intervene in the impugned action of the respondent-University in refusing permission to the petitioner to appear for the B.E. Eighth Semester Examination

commenced on 07/06/2005. It is true that the Ordinance framed by the respondent -University has statutory force. Clause 10 of the Ordinance No.77 reads as follows:

> "10. A candidate shall be eligible for admission to the V, VI, VII and VIII semester, provided he/she has passed the first, second, third and fourth semester respectively. But he shall be allowed to appear in any two or the three consecutive semester examination."

The provisions of Clause 10 of Ordinance No.77 make it very clear that a candidate in order to be eligible for appearing for the examination in the B.E. Eighth Semester, he must have passed I, II, III and IV Semester Examinations. In the instant case, as on the date of the commencement of B.E. Eighth Semester Examination, the petitioner did not pass the B.E. Fourth Semester Examination in the subject of Mathematics IV. But, the facts of this case would show apparent irrationality on the part of the respondent-University. The fact that the result of the petitioner in the B.E. Fourth Semester Examination in the subject of Mathematics IV, conducted in the month of October 2004, was declared only on 15/03/2005 and the next examination for the same subject was scheduled to be held on 17/03/2005, is not seriously disputed before me. In this case, the petitioner had to appear for the Seventh Semester Examination also which was also commenced from 17/03/2005. That fact is also not disputed. In the context of this case, I find force in the grievance of the petitioner that if the respondent-University were to declare his result and give a reasonable time for him to appear for the next examination in the B.E. Fourth Semester Examination in the subject of Mathematics IV, he would have appeared and cleared the subject and that would have enabled him to

appear for the B.E. Eighth Semester Examination commenced from 07/06/2005. There is no need for me to dilate on this aspect further, because, this Court appreciating the circumstances stated above thought it appropriate and just to permit the petitioner-student to appear for the B.E. Fourth Semester Examination in the subject of Mathematics IV along with B.E. Eighth Semester Examination and accordingly he was allowed to appear in both the Examinations by the University and by this time his performance in the examinations must have been assessed and kept in sealed covers because of the direction issued by this Court not to declare his results without the leave of the Court. I am of the considered opinion that the rule of rationality and fairness in action should persuade the Court to grant atleast a limited relief to the petitioner notwithstanding the provisions of Clause 10 of the Ordinance No.77. Undeniably, there was a serious lapse on the part of the University in declaring the result of the examination taken by the petitioner-student in the month of October 2004 within a reasonable time and giving only two days' time, nay, I say a day's time, to the petitioner-student to prepare and appear for the next examination in the B.E. Fourth Semester Examination in the subject of Mathematics IV.

(4) In the result and for the foregoing reasons, I dispose of the writ petition with the following directions:

> The respondent-University, in the first instance, shall declare result of the petitioner in the B.E. Fourth Semester Examination in the subject of Mathematics IV and if it is found that he has again failed in the B.E. Fourth Semester Examination in the subject of Mathematics IV, there is no need

to declare the results of the petitioner in the B.E. Eighth Semester Examination. In that event, the petitioner shall appear and pass the B.E. Fourth Semester Examination in the subject of Mathematics IV in order to enable him to appear for the B.E. Eighth Semester Examination. On the other hand, if the petitioner has passed in the B.E. Fourth Semester Examination in the subject of Mathematics IV, the respondent-University is directed to declare the results of the B.E. Eighth Semester Examination also.

The parties shall bear their respective costs.

**Sd/-**
**Chief Justice**

Brajesh